

Gang Activity – NC Criminal Statutes

Susan L. Sitze
Staff Attorney
Legislative Analysis Division

Legislation

- ▶ North Carolina Street Gang Suppression Act
 - S.L. 2008-214 (H274)
 - Effective December 1, 2008
 - Article 13A, Chapter 14 (G.S. 14-50.15 through 14-50.30)
 - G.S. 14-34.9
 - G.S. 15A-533

G.S. 14-50.16 – Pattern of Criminal Street Gang Activity

▶ Criminal offense:

- Class H felony for any person employed by or associated with a criminal street gang to do either of the following:
 - Conduct or participate in a pattern of criminal street gang activity
 - Acquire or maintain any interest in or control of any real or personal property through a pattern of criminal street gang activity.
- Conducting or participating in a pattern of criminal street gang activity as an organizer, supervisor, or other position of management is a Class F felony.

Definition – Street Gang

- ▶ “Criminal street gang” or “street gang” – any ongoing organization, association, or group of three or more persons, whether formal or informal that:
 - Has as one of its primary activities the commission of one or more felony offenses, or delinquent acts that would be felonies if committed by an adult;
 - Has three or more members individually or collectively engaged in, or who have engaged in, criminal street gang activity; and
 - May have a common name, common identifying sign or symbol.

Definition – Criminal Street Gang Activity

- ▶ “criminal street gang activity” – to commit, attempt to commit, or to solicit, coerce, or intimidate another person to commit an act or acts, with the specific intent that such act or acts were intended or committed for the purpose, or in furtherance, of the person’s involvement in a criminal street gang and the act is one chargeable under one of the referenced criminal statutes which include drug offenses and most of the Chapter 14 criminal offenses.

Definition – Pattern of Criminal Street Gang Activity

- ▶ “pattern of criminal street gang activity” – engaging in, and having a conviction for, at least 2 prior incidents of criminal street gang activity with same or similar purposes, results, accomplices, victims, or methods of commission or otherwise common characteristics
 - At least one offense after December 1, 2008 and the most recent prior offense within 3 years of prior criminal street gang activity, excluding periods of imprisonment

Soliciting or Encouraging Offenses

- ▶ G.S. 14-50.17 – Soliciting, encouraging person 16 or older to participate in criminal street gang activity – Class H felony
- ▶ G.S. 14-50.18 – Soliciting, encouraging person under 16 to participate in criminal street gang activity – Class F felony

Gang Withdrawal Retaliation Offenses

- ▶ G.S. 14-50.19 – communicate a threat of injury or damage property to deter a person from assisting another to withdrawal from membership in a criminal street gang – Class H felony
- ▶ G.S. 14-50.20 – communicate a threat of injury or damage property as retaliation for having withdrawn from a criminal street gang – Class H felony

Enhanced Offense

- ▶ G.S. 14-50.22 – Any person 15 or older convicted of a misdemeanor committed for the benefit of, at the direction of, or in association with any criminal street gang is guilty of an offense one class higher. A Class A1 misdemeanor is enhanced to a Class I felony.

Finding of Criminal Street Gang Activity

- ▶ G.S. 14-50.25 – When a defendant is found guilty of a criminal offense other than G.S. 14-50.16 through 14-50.20, the judge shall determine if the offense involved criminal street gang activity, and if so, shall indicate that finding on the judgment.

Applicability to Juveniles

- ▶ G.S. 14-50.28 – provides that the Article does not apply to juveniles under the age of 16 except for the misdemeanor enhancement provision of G.S. 14-50.22 and the conditional discharge and expunction procedures that are available for first offenders under the age of 18.

Additional Offense

- ▶ G.S. 14-34.9 – discharging a firearm, as part of a pattern of criminal street gang activity, from within any building, structure, motor vehicle, or other conveyance, erection, or enclosure toward a person or persons not within that enclosure. – Class E felony

Overview of Offense Data

- ▶ Data from 2008–2015 includes offenses in Article 13A of Chapter 14, G.S. 14–34.9, and indications made in the “free text” section that the offense is a gang offense.
- ▶ Overview
 - Charges for gang offenses
 - 525 charges
 - 380 defendants
 - 440 cases
 - Convictions
 - 124 convictions
 - 101 defendants
 - 119 cases
 - Charges made in 51 counties

Summary Data by Offense

- ▶ G.S. 14–34.9 – Discharge Firearm Enclosure
 - 102 charges – 14 convictions
- ▶ G.S. 14–50.16(A)1 – Pattern Gang Activity
 - 141 charges – 1 conviction
- ▶ G.S. 14–50.16(A)1 – Pattern Gang Activity Leader
 - 15 charges – 0 convictions
- ▶ G.S. 14–50.16(A)2 – Gang Activity/Acquire Property
 - 8 charges – 1 conviction

Summary Data by Offense

- ▶ G.S. 14-50.17 – Solicit Gang Activity
 - 78 charges – 16 convictions
- ▶ G.S. 14-50.18 – Solicit Gang Activity Minor
 - 77 charges – 13 convictions
- ▶ G.S. 14-50.19 – Threat Assist Gang Withdrawal
 - 0 charges – 0 convictions
- ▶ G.S. 14-50.20 – Threat Punish Gang Withdrawal
 - 24 charges – 1 conviction
- ▶ Extort/Gang – Free Text Field
 - 80 charges – 78 convictions

Finding of Criminal Street Gang Activity – Data

- ▶ 2015
 - 47 cases
- ▶ 2016 (through 9/8/16)
 - 16 cases

Questions?